Endangered earth

# Unsafe Harbor

## Court blocks Shell Oil plan to drill in Beaufort Sea offshore of Arctic Refuge

The Beaufort Sea off the north coast of Alaska is a seasonally frozen home to threatened and endangered animals such as bowhead whales, polar bears, and spectacled eiders. Unfortunately, it is also severely threatened by the intertwined forces of global warming and oil development—most recently, by Shell Oil's plans to drill exploratory wells in waters just offshore of the Arctic National Wildlife Refuge.

But thanks to the efforts of the Center and our allies, the Beaufort Sea and its imperiled denizens won a temporary reprieve Aug. 15, when the Ninth Circuit Court of Appeals issued an injunction blocking Shell's dangerous designs.

The rapidly shrinking sea ice in the Beaufort Sea threatens to drive polar bears to extinction by mid-century or sooner. If the species is to have any hope of survival, we must not only drastically reduce greenhouse gas emissions to slow the warming of the Arctic, but also protect the bear's critical habitat from industrial developments.

Shell's exploration plan—recently approved by the Bush administration—would do just the opposite, presenting a double-barreled threat to the species. First, oil drilling and associated activities would directly disturb denning mother bears and their cubs and bring a risk of catastrophic oil spills. Compounding that harm, any oil extracted would eventually be burned, resulting in more atmosphere-polluting greenhouse gases and further fueling Arctic warming and concomitant sea-ice loss.

The federal Minerals Management Service recently approved Shell's drilling plan, granting a permit for exploration over the objections of its own scientists, the Center, and a coalition of conservation and Alaska native

**Unsafe Harbor** *continued on back page*

Photo (c) Thomas D. Mangelsen/Imagesofnaturestock.com

With NASA satellite data showing record ice melt in the Arctic for the summer of 2007, the polar bear's survival appears to be on thinner ice than ever. Yet the Bush administration continues to collude with oil companies to open the bear's fragile habitat to more drilling, even as it continues to duck responsibility for reducing U.S. greenhouse gas emissions.

## INSIDE THIS ISSUE

# ADVOCACY SPOTLIGHT

**Michael J. Robinson**, *Conservation Advocate*

# Long Way Home

## The last decade has seen the return of the jaguar to southern Arizona and New Mexico—just a remote corner of its former U.S. homelands. But it's a road fraught with obstacles: political obstacles, and now, a more insurmountable barrier.

The largest cat in North America is back.

Four individual jaguars have been confirmed in New Mexico and Arizona since 1996; numerous others have been reported. But as jaguars return to the Southwest from Mexico, they still face the government predator control that helped eliminate them in the 20th century, and although some of the elusive feline's habitat has been improved through Center victories restricting livestock grazing, that habitat is still under siege.

Worst of all, a jaguar-proof wall is being constructed along the international border. Underlying and perpetuating these woes like a psychic wall, the government agency that killed off jaguars suffers amnesia about their former widespread presence in the United States—and will not lift a finger to aid in recovery.

**Extermination to the Edge of a Once-grand Range**

The first written record of jaguars in the United States stems from the 1540-1542 expedition of conquistador Francisco Vásquez de Coronado, which encountered "leopards" along the upper Gila River. Fossil remains from as far afield as Washington, Nebraska, and Maryland indicate that the jaguar developed from a larger evolutionary progenitor in North America, which colonized South America 600,000 years ago, shrunk in size, and lost its northernmost range—perhaps as recently as 15,000 years ago. Competition with wolves may have contributed to its decline.

When Europeans arrived in North America, jaguars ranged from the Atlantic to the Pacific oceans. They were reported as far north as North Carolina, the Texas Panhandle, Colorado's Rocky Mountains, the Grand Canyon, and along Monterey Bay, Calif.—in almost every conceivable ecosystem ranging from low desert to high mountains and from arid grasslands to piney woods—and they ranged all the way south to similar climates and landforms in South America.

By the early 1800s, jaguars had been eliminated from the southeastern United States. In the Southwest, early Spanish authorities offered bounties for jaguars in order to protect livestock. Jaguars were also widely hunted for their striking pelage, a pursuit aided by horses introduced by the Spanish. In the 1840s and 1850s, Comanches on the Texas prairies sported jaguar skin quivers, holster coverings, saddle cloths, and caparisons (ornamental coverings for horses). In San Antonio, jaguar pelts cost $18 apiece.

Still, according to America's foremost 19th-century scientist, the

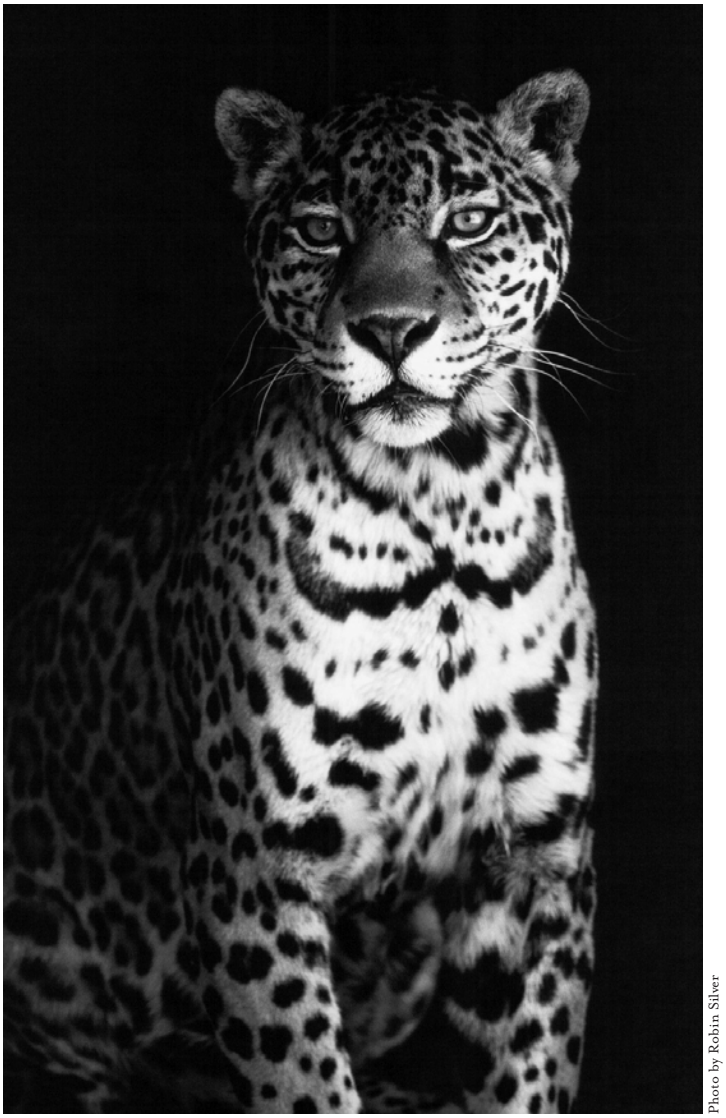


Photo by Robin Silver

Smithsonian Institution's Spencer F. Baird—who accompanied an army border expedition—a "vast number" of jaguars subsisted on "numerous herds of wild cattle, mustang, mules, and horses, besides plentiful other game in the fertile valleys and tablelands of the Lower Rio Bravo, Nueces, and other Texan rivers." Naturalist John James Audubon reported that Texas rangers happened upon a jaguar feeding on a mustang, "surrounded by eight or ten hungry wolves, which dared not interfere or approach too near."

But the last two jaguars in southern Texas were killed on the Gulf Coast in 1946 and 1948. Another army expedition reported a large "tiger" in 1853 on the Canadian River in the Texas Panhandle west of Oklahoma; the last jaguar on the Great Plains in Texas was killed in 1910, and the last on the Great Plains of northern New Mexico was killed "some years" prior to 1938, when its skin was on display.

In the Rocky Mountains, at the headwaters of the South Platte River, a mountain man reported a "leopard" in 1843. John James Audubon reported jaguars at the headwaters of the Rio Grande River as well.

In California in 1855, two jaguar cubs were observed with their parents in the Tehachapi Mountains overlooking the western Mojave Desert. The state's last reported jaguar was shot in 1860 outside Palm Springs after it attacked a Native American who was hunting with a deer-head disguise.

Whereas habitat loss, bounties, and fur hunting eliminated jaguars from the Southeast, Texas, and California, jaguar immigration from Mexico replenished the big cats' numbers in Arizona and New Mexico.

But in 1915, a systematic federal predator extermination program was initiated, targeting jaguars as a matter of policy and also killing them incidentally

**Jaguar** *continued on page 8*

CALLER-TIMES, Sunday, April 25, 1948

BEAUTY AND THE BEAST—Three-year-old Carol Ferguson, daughter of Mr. and Mrs. Bob Ferguson of Kingsville, sits atop the beast, a jaguar killed last week on the Ferguson dairy farm three miles southeast of Kingsville. Mrs. Sue Ford of Ricardo reports that the animal, classified by Val Lehman, conservationist and wildlife specialist for King Ranch, measured five feet 10¼ inches overall; maximum girth of belly, three feet; toe-tip to top shoulder, two feet three inches. The animal weighed 121 pounds. (Photo by Lehman)

TOUGH CUSTOMER

## 121-Pound Jaguar Killed On Farm Near Kingsville

South Texas has everything; even jaguars.

But there is one less jaguar in this area now; after Reyes Cuevas, worker on the Bob Ferguson dairy farm near Kingsville, killed one of the big cats recently.

Cuevas had gone into the brush near the Ferguson home, hunting rabbits. He carried only a .410 gauge shotgun, a weapon that is fine for shooting rabbits, but miserably inadequate for big game like jaguars.

He spotted the big cat crouching behind a cactus plant, and without much ado he cracked down on the animal with a charge from his rabbit gun. Stunned, shocked, and perhaps blinded by the volley of small shot from Cuevas' gun, the jaguar began running in circles and soon climb-

Cuevas, realizing the privacy of his adversary by this time, left the cat up a tree while he went for a bigger gun. At the Ferguson home, which was nearby, Cuevas borrowed a rifle and went back to finish off the jaguar.

Cuevas, realizing the prowess Val Lehman, conservationist and wildlife specialist for King Ranch, identified the animal as a jaguar.

The jaguar is among the larger specimens of the feline family, and its native habitat extends from Texas to Paraguay. It has a larger head, heavier body, and shorter, thicker legs than the leopard or bull, marked with ish yellow or tawny with black spots.

According to Mrs. Sue Ford of Ricardo, the jaguar killed by

inches overall. Its maximum belly girth was three feet, and it was 30 inches tall. The aimal weighed 121 pounds.

The Ferguson dairy farm, where the jaguar was killed, is three miles southeast of Kingsville.

When Cuevas was asked if he wasn't afraid to shoot such a big cat with a .410 gauge shotgun, he said that under the circumstances he figured he could outrun the animal if it showed any inclination to chase him. Fortunately for him, the jaguar took to a tree, and Cuevas had time to bring up heavier artillery.

Panthers, large bobcats, lynxes, and other members of the feline family are not uncommon in the brush country of South Texas; but the jaguar killed by Cuevas is the first that has been seen so near a farm home in some time.

### Robinson Heads BSU

ARLINGTON, April 24. (AP)—Jackie Robinson of Fort Worth, a student at Baylor University, was elected president of the Student Union today at the closing session of a two day convention of 350 BSU officers from Texas colleges.

YMC Camp Plann

For Ma

*In September 1903, Henry Morris and Homer Brown posed with the jaguar that surprised a group of hunters. The jaguar killed eight of the 10 dogs involved in the melee before a hunter shot the big cat.*

Photos courtesy of Landon Lockett

**Sign of the Times:** Historic newspaper clippings like these heralded hard times ahead for jaguars on the northern side of the U.S.-Mexico border. The shot "beast" in the 1948 clipping (left) was one of the last few remaining wild jaguars in southern Texas.

# PROGRAM NEWS.....

## Ten penguin species march toward protection

Responding to Center actions, the U.S. Fish and Wildlife Service advanced the emperor penguin and nine other penguin species toward federal Endangered Species Act protection this July. The primary threats to penguins are global warming, industrial fisheries, and ocean acidification.

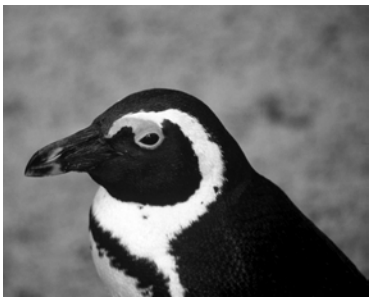


Photo by Bob Fleming

African penguin

The Pointe Geologie emperor penguin colony has declined by more than 50 percent due to global warming, and continued warming over the coming decades will dramatically affect penguins in Antarctica, the sub-Antarctic islands, the Southern Ocean, and nearby ecosystems.

Industrial fisheries hurt penguins either directly—through killing by trawls, nets, and longlines—or indirectly, through depleting essential prey species such as anchovy and krill. Finally, oceans have absorbed about 50 percent of human-caused carbon dioxide emissions, decreasing the amount of carbonate ions available for shell-building organisms at the base of the food chain.

If current emissions continue, in 50 years some Southern Ocean plankton could be unable to build shells, dramatically affecting all of the area's species.

The Center authored the November 2006 petition to place the penguins on the federal endangered species list, an action the Service said in July "may be warranted."

## Petitions seek protection for warming-threatened American pika

On Oct. 1, the Center petitioned the U.S. Fish and Wildlife Service to protect the American pika—a heat-sensitive alpine mammal—under the federal Endangered Species Act. This action comes less than two months after we petitioned to list the pika under California's Endangered Species Act—the first-ever petition to list a species in that state due to global warming.

The small, rabbit-related pika, found in windswept mountain peaks in the western United States, is known for its distinctive call and frenetic activity collecting plants for winter sustenance. Adapted for cold temperatures, pikas avoid heat by seeking cool, rocky crevices and resting during warm periods; pikas can die from overheating when exposed for just a few hours to temperatures as low as 80 degrees Fahrenheit. Global warming's relentless rise in temperatures threatens pikas by shortening available food-gathering time, affecting plant variety, reducing insulating snowpack, and most directly, killing pikas through overheating.

Photo by Michael Mengak

American pika

Great Basin and Yosemite National Park researchers have found that the pika's range is already retreating upslope as temperatures warm, and more than a third of pika populations in the Great Basin mountains have gone extinct.

Our federal petition requests protection for the pika in the lower 48 states from global warming and other threats, which also would provide impetus for a reduction in U.S. greenhouse gas emissions. The California petition requests state protection for California's five American pika subspecies.

## Turtle-killing fisheries blocked in California waters

This summer saw two victories in the Center's continuing efforts to keep California's ocean waters free of deadly longline and gillnet fishing gear.

The leatherback sea turtle, one of the most endangered marine animals on the planet, each year makes its way across the Pacific from nesting beaches in Indonesia to feed in the jellyfish-rich waters off California. The species has declined in recent decades by more than 90 percent, primarily as a result of drowning in longline and gillnet fishing equipment targeting swordfish and tuna.

In 2006, the Bush administration proposed to issue a permit allowing drift-gillnet vessels to fish for swordfish in the leatherback feeding area off California, an area previously closed to gillnetting as a result of Center litigation. New Center opposition caused the government to delay the gillnet permit in 2006 and finally abandon it in June 2007.

But less than a week after withdrawing the gillnet permit, the administration proposed allowing longline fishing for swordfish in the same leatherback feeding area. In response, the Center requested that the California Coastal Commission review the newly proposed permit for consistency with the state's coastal act. In August, the Commission voted unanimously to reject the longline permit, maintaining California waters as a true leatherback sanctuary.

The largest of all turtles—more than two meters long and 2000 pounds—the leatherback has been around more or less unchanged for tens of millions of years. It swam the Jurassic oceans along with plesiosaurs and lived through the asteroid that killed off the dinosaurs. But unless we permanently ban longline and gillnet fishing throughout the Pacific, the leatherback is unlikely to survive our appetite for swordfish.

## Suit challenges 46 pesticides in Bay Area habitat

In May, the Center filed suit against the Environmental Protection Agency for registering and allowing use of 46 toxic pesticides in habitats for 11 San Francisco Bay Area endangered species without determining the chemicals' effects on the species.

The Environmental Protection Act requires the agency to consult with the U.S. Fish and Wildlife Service on such effects before registering pesticides, but such consultations have consistently failed to happen under the Bush administration.

From 1999 to 2005, at least 61 million pounds of pesticides were applied in Bay Area counties. Rodenticides in the East Bay have poisoned endangered San Joaquin kit foxes, and toxic pulses of pesticides documented in Bay Area aquatic habitat have been implicated in the recent collapse of Delta-Bay fishes such as the critically endangered Delta smelt.

In addition, numerous studies have linked pesticides with significant neurological, developmental, and reproductive damage in amphibians like the California tiger salamander. Among other species of concern in the current lawsuit are the tidewater goby, California clapper rail, Alameda whipsnake, and valley elderberry longhorn beetle.

Photo by Gary A. Beeman

Alameda whipsnake

The Center is seeking pesticide-use restrictions in Bay Area endangered species' habitat until the completion of chemical-impact assessments, which should result in permanent protections from harmful pesticides. Through an October 2006 settlement agreement, we have already been successful in obtaining such restrictions on the use of 66 toxic pesticides in and adjacent to core habitats and the critical habitat of California red-legged frogs.

## No-lead campaign for condors comes to Arizona

This July, the Center and its partners requested that the Arizona Game and Fish Commission amend hunting regulations to require use of non-lead ammunition, since lead bullets contaminate carcasses scavenged by critically endangered California condors.

Despite two years of well-received voluntary lead-reduction outreach led by the Arizona Game and Fish Department, condor lead-poisoning incidents have risen dramatically the past two years.

Since the southwestern condor reintroduction program began in 1996, lead poisoning has been the leading cause of death for Grand Canyon condors; at least 12 Arizona condors have died of lead poisoning, and increasing numbers must periodically receive emergency treatment for lead poisoning to save their lives. In 2006, 95 percent of all Arizona condors had lead exposure and 70 percent had elevated lead blood levels requiring emergency treatment. Condor experts have concluded that as long as lead ammunition is used in condor range, recovery of the species is unlikely.

The Arizona Fish and Game Commission is required under the Endangered Species Act to prevent avoidable death, injury, or harm to condors from lead poisoning, and it has the authority to do so through revising hunting regulations. Non-lead ammunition is safe and reliable, and its enforced use would not restrict hunting.

In California, a bill to require non-lead ammunition in condor range by 2008 has already been passed by the state's assembly and senate, and was awaiting governor approval at press time.

## Persistence pays in fight for wolf program reform

The Center achieved two milestones for endangered Mexican gray wolves this summer, driving forward essential revisions to the rule governing wolf management and working with New Mexico governor Bill Richardson to rein in federal wolf shooting and trapping.

While the population of Mexican gray wolves reintroduced to Arizona and New Mexico in 1998 was supposed to reach more than 100 wolves—including 18 breeding pairs—by December 2006, predator control resulted in survival of only 59 wolves and six breeding pairs by that date. So far, the government has shot 11 wolves, killed 20 inadvertently through capture, consigned 23 to life imprisonment, and trapped, moved, stressed, and injured others.

Photo courtesy of Arizona Game & Fish

Mexican gray wolf

In 2004, the Center petitioned the U.S. Fish and Wildlife Service to enact recommendations of a 2001 scientific review of the reintroduction program, which urged reforms to prevent wolves from scavenging non-wolf-killed horse and cattle carcasses—thus becoming habituated to livestock—and to allow wolves to roam outside arbitrary boundaries. Since the Service ignored our petition, we filed suit in December 2006.

In 2005, the Service and five other agencies imposed an arbitrary Mexican wolf predator-control protocol that targets wolves regardless of unique genetics,

# PROGRAM NEWS.....

dependent pups, or any other factor. The Center led efforts to ply officials with citizen-written and scientific remonstrations against this protocol, and also publicized abuses—including the government's shooting of a genetically irreplaceable wolf. In July 2007, Governor Richardson called for immediately suspending the protocol, and as a result, the New Mexico Department of Game and Fish is working towards its suspension.

This August, the Center's lawsuit finally induced the Service to publish a schedule for changing the overarching rule for Mexican wolf management. We are now organizing for attendance at November and December public scoping meetings in Arizona and New Mexico to ensure the long-term recovery of the Mexican wolf.

## Report release and vole petition launch effort for Oregon species

In June, the Center jointly released a report identifying all species of concern in northwest Oregon's Tillamook Rainforest and North Coast, and in coalition, filed a petition to protect the dusky tree vole under the Endangered Species Act.

The Tillamook Rainforest and North Coast contain a diversity of habitats, including rainforests, marine environments, estuaries, coastal headlands, and rivers and streams. A combination of sweeping fires in the 1930s and clearcut logging have resulted in the near-total loss of once-extensive mature and old-growth forests in the Tillamook, as well as loss or decline of many old-forest associated species.

To assess the full range of species at risk from logging, urbanization, pollution, and other causes in the Tillamook and North Coast, we reviewed dozens of studies along with state, federal and private databases concerning the status of, and threats to, species in these areas.

Our review found that 34 percent of the region's species are critically imperiled, 37 percent are imperiled, and 29 percent are vulnerable. We also identified eight species now gone from the region: the grizzly bear, California condor, Columbian white-tailed deer, gray wolf, Pacific fisher, sea otter, sandbar darkling beetle, and small spikebrush. To stem further losses and help remaining plants and animals once again thrive, the Center's report includes 10 recommendations for protecting and restoring habitat, including adding a number of the region's species to the federal threatened and endangered lists.

The dusky tree vole, a subspecies of red tree vole found only in Tillamook forests, is the first for which the Center and other groups have petitioned for Endangered Species Act protection. Tree voles live nearly their entire lives in trees and are dependent on forest structures associated with older, unmanaged forests, including broken and forked tree tops, witches' brooms and large, wide branches. Thus, they are excellent indicators of old forest habitats depended upon by hundreds of species.

Recent surveys failed to locate dusky tree voles in places where they were once common, suggesting the species is in critical need of protection.

Photo courtesy of Washington Dept. of Fish and Game

Pacific fisher

## Court nixes resorts in beach mouse habitat, for second time

In February, the U.S. Fish and Wildlife Service responded to a 2003 lawsuit from the Center and Sierra Club by expanding critical habitat protections for the three-inch Alabama beach mouse to include 1,211 Gulf Shore acres.

While the new area includes only about 200 acres more than those designated when the mouse was added to the federal endangered species list in 1985, it is a meaningful improvement because it excludes regions where habitat conservation plans already exist. Unfortunately, it also excludes large areas slated for development detrimental to the mouse.

In a May victory, in response to a separate suit by the Center and allies, a federal judge imposed a preliminary injunction against two massive resort projects that would have destroyed 40 acres of beach mouse habitat on Baldwin County's Fort Morgan peninsula, including rare, higher-elevation habitat the species needs in order to survive hurricanes. The same projects were halted in 2002 by the Mobile federal court, based on the Service's failure to analyze impacts to the beach mouse.

By spreading sea oats as they scurry, Alabama beach mice play an important role in maintaining sand dunes that form the first line of defense against storm surge. But Fort Morgan Peninsula and parts of nearby Gulf State Park now contain the rodent's last, shrinking habitat. Conservationists argue that the beach mouse's decline indicates impending ecological disaster on one of the Alabama coast's last remaining undeveloped beaches.

# Center to Administration: Don't be a Dodo

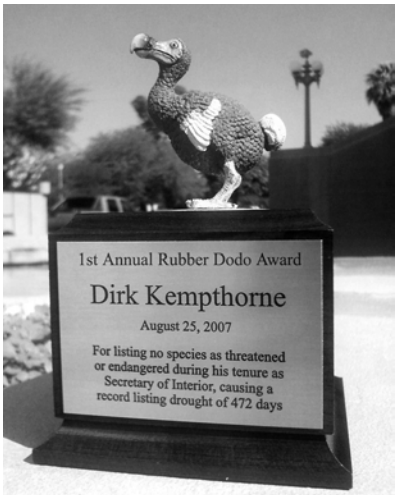
Capping off a busy summer in Washington, D.C., the Center personally awarded Bush's Interior Secretary, former Idaho Senator Dirk Kempthorne, with the first annual Rubber Dodo Award for his department's abject failure to list a single species under the Endangered Species Act for over 15 months. This intransigence wears on despite the approximately 275 "candidate" species that agency biologists have dubbed worthy of listing, and breaks the non-listing record established by Ronald Reagan's infamous Interior Secretary James Watt in the '80s.

Our hope is that this trophy award—with the loveable, gawky, but very extinct bird atop—will resonate with the American public, spotlighting those members of our own species who better deserve the moniker of "dodo." (The original dodo bird, *Raphus cucullatus*, was driven to extinction by human killings on the island of Mauritius in the 17th century.)

Currently, the Center has an active lawsuit in federal district court challenging the efficacy of the existing program to deal with candidate species—those species that the government's scientists find merit protection under the Endangered Species Act, but which the administration claims it cannot list as threatened or endangered due to higher priorities. That claim rings hollow, given the Interior Department's zero-listing streak since Kempthorne took the helm; it's anyone's guess what "higher priority" actions the agency has taken during his tenure.

We are also working with the Senate Appropriations Committee, including Interior Subcommittee Chairwoman Dianne Feinstein, D-Calif., to remedy chronic underfunding and waste in the agency's Endangered Species Act listing and critical habitat programs, and to pressure the administration to act positively when Congress takes action on the Interior spending bill this autumn. We also helped Rep. Ed Markey, D-Mass., on the bill HR 3459, titled "Transparent Reporting under the ESA Listing Act," introduced in the House of Representatives just before the August congressional recess.

Besides Kempthorne, another Interior Department official deserving of dodo-dom is Julie MacDonald, who was forced to resign in late spring as a result of an Interior Inspector General report linking her to numerous illegal agency decisions under the Endangered Species Act and other natural resource laws, including potential criminal violation of financial conflict-of-interest rules. The Center initially broke the media story about MacDonald's shenanigans in late 2006, following up this August with the biggest "notice of intent to sue" letter in the history of the Endangered Species Act. This letter identified 55 species and 8.7 million acres of wildlife habitat that have been compromised not only by MacDonald's conspiratorial lawlessness, but also by other high-ranking officials at Interior, as well as by Bush appointees at the Office of Management and Budget, the Department of Commerce, and even the White House.




Among the many legal violations cited by the notice of intent is the administration's consistent disregard of the environmental, economic, and social benefits of conserving "critical habitat" for endangered species as required by the Act. Time and again, the administration has arbitrarily inflated supposed economic costs of protecting habitat while ignoring expert evidence of the many benefits: clean water, productive soil, lower transportation costs, sprawl prevention, eco-tourism, recreation opportunities, and global warming amelioration. The administration has also illegally tried to substitute incomplete or unenforceable "habitat conservation plans" permitting new development in place of the more science-based, legally binding protection of designated critical habitat.

As a result of our historic notice of intent, the Interior Solicitor's office has contacted Center lawyers in an attempt to avoid further public embarrassment over the administration's abysmal record in court. Nonetheless, we continue to plan the litigation needed to ensure that the agency takes concrete conservation action for the plants and animals it has willfully neglected to protect.

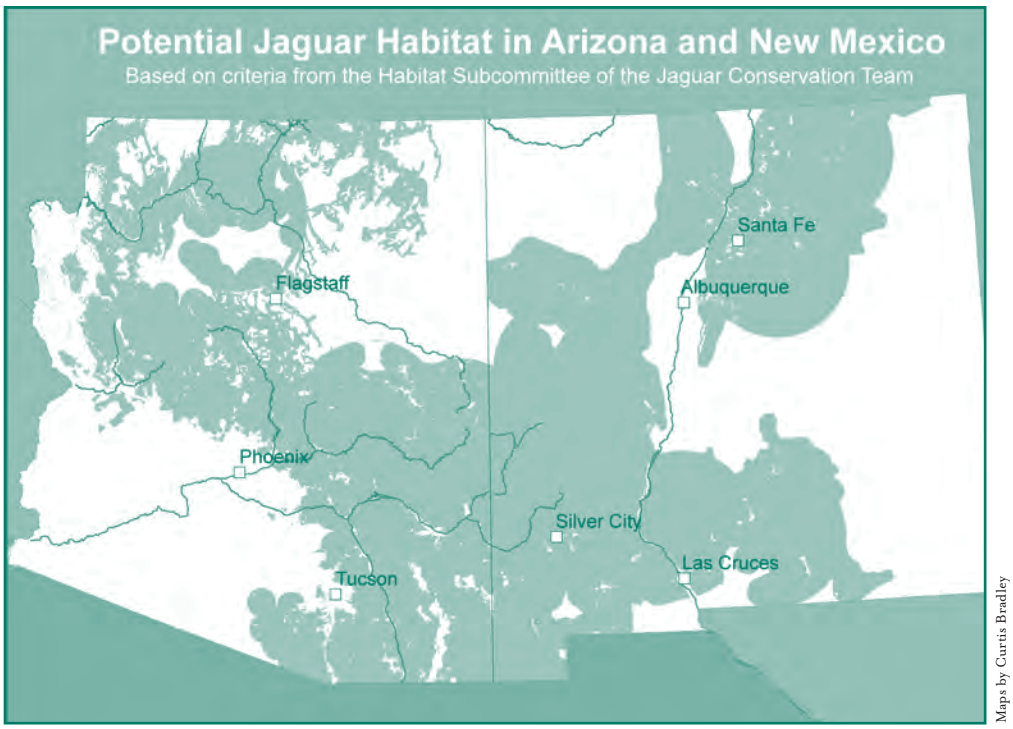
On Capitol Hill, we continue to press committee leaders to fully investigate the Bush administration's illegal behavior in administering environmental laws. Supplied with information generated by Center staff, House Natural Resource Committee Chairman Nick Rahall, D-W.Va., confronted the administration about political interference in the Klamath River and other ecosystems where Republican financial contributors receive special political favors. The Center also sent a letter to Senate leaders regarding hundreds of millions of dollars funneled to U.S. timber interests as part of the Canadian Softwood Lumber Trade Agreement, which was meant to stop the liquidation of Canadian forests by creating transboundary conservation networks—but which instead became another industry give-away by Bush's trade office. At issue are species such as the grizzly bear, lynx, and bull trout.

Perhaps the biggest dodo move by the administration is its continued foot-dragging on global warming, which will soon eclipse all other forms of habitat destruction. With reports from the U.S. Geological Service that climate change is melting polar ice at alarming rates, the House Science Committee is investigating Interior Department suppression of scientific evidence linking greenhouse gas emissions with precipitous polar bear declines. The Center's campaign for the polar bear, including our 2005 lawsuit with NRDC and Greenpeace, has created the political leverage to force a final decision on the bears' listing as a threatened or endangered species under the Endangered Species Act in early 2008. In addition, our legal actions have brought about a binding commitment by the National Marine Fisheries Service to designate critical habitat for elkhorn and staghorn corals off the coast of Florida and in the Caribbean; both species are heavily impacted by global warming.

As the administration unconscionably dawdles on international greenhouse gas negotiations, the Center has joined other groups in a campaign for Senate ratification of the Convention on Biological Diversity, which would also help combat global warming. The Convention passed a 17-3 vote in the Senate Foreign Relations Committee over a decade ago before being blocked by former dodo Senator Jesse Helms, R-N.C. Thus far, Bush has emulated Helms' behavior on this and related international accords.

*Update by William J. Snape, III, Center Senior Counsel, Washington, D.C.*

through poison set for coyotes. The U.S. Bureau of Biological Survey killed its first jaguar in December 1918 in the Santa Rita Mountains south of Tucson, Ariz. Its successor agency, the U.S. Fish and Wildlife Service, killed the last confirmed female jaguar in the United States in 1963 at 9,100 feet elevation in the Apache National Forest of Arizona (where the same agency has since reintroduced—and persecuted—Mexican wolves).



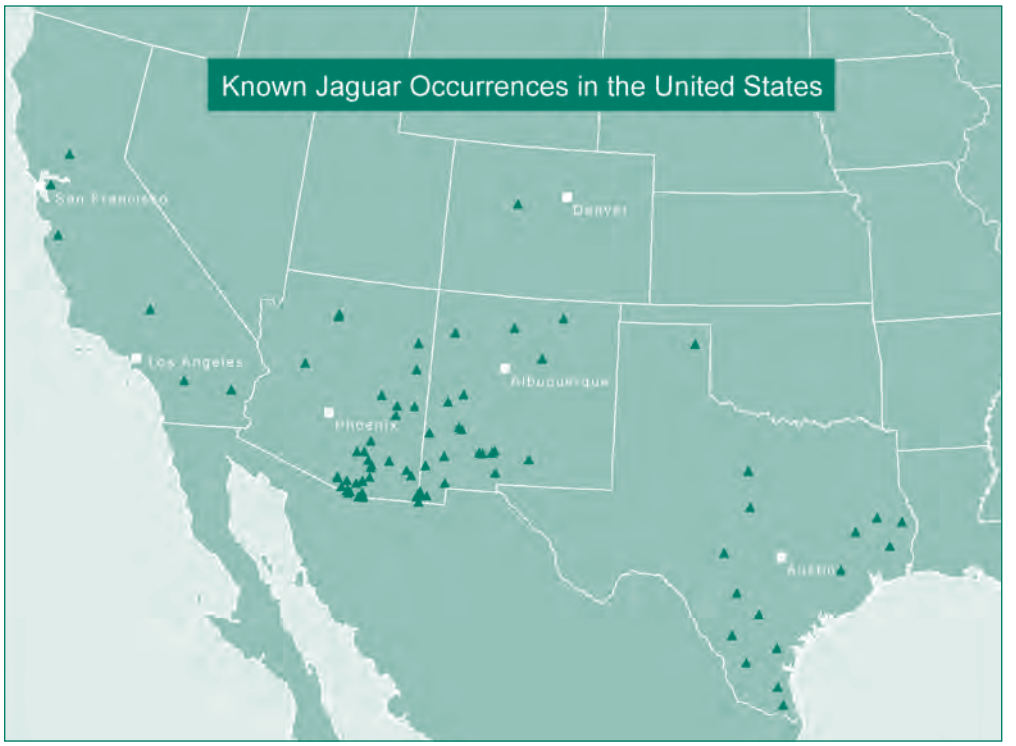

Maps by Curtis Bradley

**A 200-pound "Oversight" with Rosettes**

Having played a significant role in exterminating the jaguar in the United States through its traps, poisons, and hunting hounds, in 1972 the Fish and Wildlife Service listed the jaguar as an endangered species throughout its range outside of the United States, under the authority of the Endangered Species Conservation Act of 1969.

However, the agency continued to issue "hardship permits" to safari companies that had contracted with hunters previous to the listing—thus allowing the continued importation of jaguar pelts into the United States from populations to the south. This was one of many abuses of the agency's discretion that came to light in congressional hearings and led to passage of the modern Endangered Species Act in 1973.

In 1979, the Fish and Wildlife Service stated in the Federal Register that through an "oversight," the jaguar was not listed as an endangered species in the United States when the list of foreign endangered species authorized under the 1969 law was used as a template to create the list authorized in the 1973 act. The agency pledged to "take action as quickly as possible" to list the jaguar domestically—but it failed to follow through.




In the meantime, in 1986, a jaguar that had been living for at least a year in the Chiricahua Mountains of southern Arizona was run down by two packs of hounds for three days, until brought to bay on a rock outpost and shot by a rancher. The killing wasn't even a violation of the Endangered Species Act, since to receive protection a species has to be on the official list.

In 1992, biologist Dr. Anthony Povilitis submitted a petition to the Fish and Wildlife Service to add the jaguar to the federal list of endangered species, but it was ignored. In 1996, the Center for Biological Diversity sued the Service in federal court to require it to consider the petition on its merits. The suit was successful and led to the jaguar officially becoming an endangered species in the United States on July 22, 1997.

**Conservation Team a Half-hearted Gesture**

In an unsuccessful attempt to preempt and prevent the imminent listing of the jaguar, federal, state, and local government agencies in Arizona and New Mexico created a Jaguar Conservation Team and promised to "coordinate protection of jaguar habitat" and to "maintain and promote existing and other suitable jaguar habitats."

After the listing, the Center participated on the team's habitat subcommittee, blocked attempts to confine official jaguar habitat to politically convenient areas, and mapped areas in New Mexico and Arizona that qualified as potential jaguar habitat according to the subcommittee's scientist-backed criteria (see map, facing page). Yet in over 10 years, the team's coordination has not resulted in the protection of a single acre of jaguar habitat. Now, a new draft of the team's operating charter omits the inconvenient pledge to protect habitat.

The Fish and Wildlife Service refuses to convene a recovery team to develop a recovery plan and refuses to designate critical habitat, both required by the Endangered Species Act. The jaguar is the first listed species that the Service has explicitly decided never to recover, contrary to the law. The Service has even issued a permit to its sister agency, USDA Wildlife Services, authorizing the inadvertent injury or killing of jaguars through predator control.

**Border Wall Means Barrier to Recovery**

Now comes a wall on the U.S.-Mexico border, exempted by Congress from compliance with all environmental laws, with construction starting on a seven-mile stretch not far from the area in Arizona where a jaguar is known to have roamed regularly for at least 10 years (based on photos that identify the unique pattern of his rosettes). As the wall extends further, jaguar migration into the United States from the northernmost remaining jaguar breeding population in Mexico—130 miles south of the border—will increasingly be cut off. The Jaguar Conservation Team has neither opposed nor spoken out against the wall, and the Fish and Wildlife Service has given it an official blessing in the form of a "no-jeopardy" biological opinion—a green-light determination, as the name suggests, that the wall will not harm jaguars.

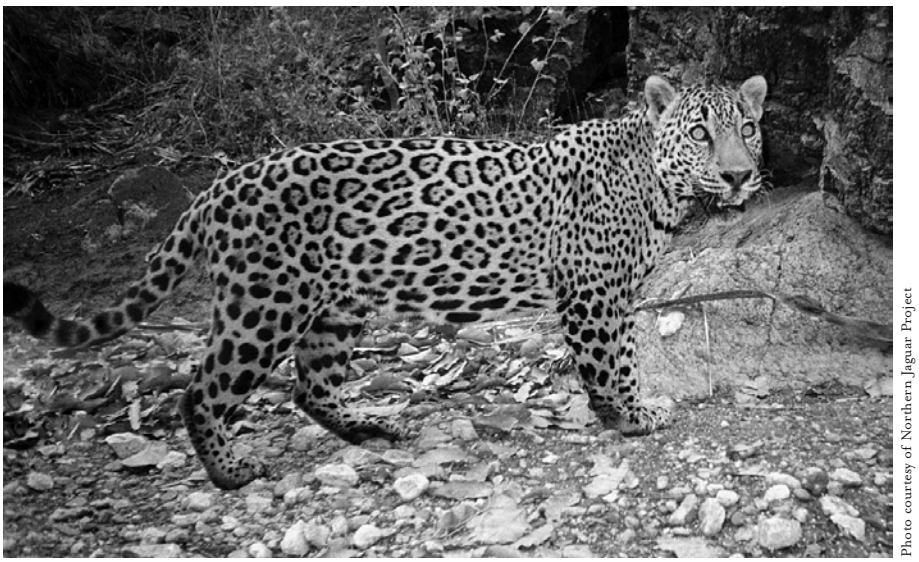


Photo courtesy of Northern Jaguar Project

A jaguar photographed by motion-trigger camera on the Northern Jaguar Reserve in northern Mexico, about 125 miles south of the U.S.-Mexico border. Motion-triggered cameras north of the border have documented jaguars in Arizona in recent years. The proposed border wall threatens to dash all hopes that jaguars will continue to migrate from Mexico back to their former U.S. territory.

On June 10, 2007, the American Society of Mammalogists passed a resolution calling for critical habitat designation, development of a jaguar recovery plan, and allowing jaguars to cross the border unimpeded. The mammalogists' resolution noted that "habitats for jaguars in the United States, including Arizona and New Mexico, are vital to the long-term resilience and survival of the species, especially in response to ongoing climate change."

On Aug. 2, 2007, the Center filed suit against the Fish and Wildlife Service to require designation of critical habitat and development of a jaguar recovery plan. Critical habitat comprises the areas required for recovery of an endangered species; federal agencies are forbidden from adversely modifying critical habitat, either directly or through permitting potentially destructive activities in protected areas. Recovery plans are the road maps to a U-turn from the brink of extinction and to the high ground of recovery where a species is likely to thrive and persist as part of its ecosystem. An honest recovery plan would help persuade decision-makers not to build the border wall.

Jaguars are all but invisible, cryptic and camouflaged in a few southwestern mountain ranges. Even many who celebrate jaguars' presence north of the international border forget their evolutionary genesis in much broader landscapes throughout North America. Labeled an official "oversight" from 1973 to 1997, today their absence from public lands and open spaces is considered the norm. The Center aims to help keep these big spotted cats hidden and safe, but no longer anonymous and rare.

*Michael J. Robinson, Conservation Advocate for the Center for Biological Diversity, is author of* Predatory Bureaucracy: The Extermination of Wolves and the Transformation of the West *(University Press of Colorado, 2005).*

# In Remembrance

## Tom Wootten

Tom Wootten died Aug. 7, 2007, while on a morning walk near his home in Gila, N.M. A strong advocate for conservation and one of the first and most loyal supporters of the Center for Biological Diversity, Tom will be missed by all who knew his kind nature and his unrelenting work to protect rare plants, native ecosystems, and science-based management of public lands.

Center founder and Policy Director Kierán Suckling spoke at Tom's service. "Just weeks ago, at a reception after a Center board meeting, I found Tom and my young daughter Nola deep in conversation," Kierán remembered. "What was he explaining? How cattle destroy ecosystems!"

Tom knew firsthand about grazing—he grew up on a ranch in Clayton, N.M. He attended New Mexico State University (NMSU), where he met and married Eleanor. After army service, he rose quickly in the investment division of First National Bank of Kansas City. In 1975, he returned with his wife to their beloved Southwest to study horticulture at NMSU, starting a native plant nursery years ahead of its time. He also studied the bagpipes.

Tom was actively involved with local Audubon Society and Native Plant Society efforts and served on the boards of New Mexico Nature Conservancy and New Mexico Wilderness Alliance. Colleague Bob Tafanelli recounts how Tom's "hundreds, maybe thousands" of letters as well as phone calls and personal office visits over 20 years made him a familiar face within conservation and agency circles: "He was on a first-name basis with many people in the local, [state and] district offices of the Forest Service, Bureau of Land Management, and Fish and Wildlife Service as he paid them many a visit."

"[W]hen I was a green and arrogant bureaucrat and did not know him very well," recalls Bob Sivinski, New Mexico Forest Division's land conservation manager, "Tom and I publicly traded

barbs about the list of New Mexico endangered plants. The next time we met, Tom bought me a beer and we talked about botany and conservation. . . .

"[E]ver since then, I could count Tom as a dear friend who supported almost everything I did—along with a gentle nudge to do a little more," says Sivinski. "Tom's support was the best. He was eloquent about his convictions, very knowledgeable of the facts, and he invited everyone to share his convictions to be better people and stewards of the land. His approach was hard to ignore."

Audubon volunteer Tom Jervis also remembers him fondly: "Tom was always excited about recognizing those unsung heroes in the land-management agencies who—against many odds—did the right thing for the biodiversity." Jervis credits Tom for the New Mexico Audubon Council's creation of the Aldo Leopold Award recognizing consistent conservation work over time.

In 1995, the Woottens founded T&E, Inc. (The name plays on both Tom's and Eleanor's initials and "threatened and endangered" species.) "Tom and Eleanor wanted to facilitate science's application to land management, and put their financial support into a foundation to help students, particularly, tackle projects that could help," says friend Laura Huenneke. "Scores of graduate students have completed the kinds of projects that Tom and Eleanor wanted to facilitate, and fed that information back to the land management agency, thanks to T&E."

"T&E took a form dictated somewhat by microbiologists," says Eleanor. "Tom realized that biology departments were leaning more toward microbiology and farther from field studies that are needed for environmental issues to provide concrete proof of what is happening on the ground. Tom asked NMSU's biology department if small grants would be useful to students. There was a little interest!"

Retired professor Richard Spellenberg remembers not only how much the department's graduate students and faculty appreciated the invaluable support from Tom and Eleanor, but also how much Tom appreciated seeing that support at work. "Tom went with us on field trips once or twice—once into Mexico—and was incredibly enthusiastic about learning how we study plant diversity and the identification of the plants themselves."

Tom's devotion to nature was celebrated in 2000, when he and Eleanor received the National Audubon Society's Charlie Callison Award—the organization's highest honor bestowed on members or staff—for their efforts on behalf of birds and other wildlife.

In addition to Eleanor, his wife of 46 years, Tom is survived by their four children and nine grandchildren, and by siblings Bill Wootten and Janice Bond.

"I think his greatest legacy is simply the kind of person he was and how he treated people," says friend Julie Prior-Magee. "Sometimes it's not what you do, but the way that you do it."

*To learn more about the projects of T&E, Inc., visit www.tandeinc.com.*

## Natalie Ames Hopkins

Longtime Center for Biological Diversity supporter Natalie Hopkins died April 15, 2007, following a brief illness.

Natalie in the Galapagos Islands with her son, Tom, and friends, 2006.

Nat, as she preferred to be called, was born May 10, 1919, in Wellesley, Mass. She graduated from Oberlin College, and soon after married Mark Forrest Hopkins. Following Mark's service in Europe in World War II, the two settled in San Jose, Calif. There, Mark entered the insurance business while Nat devoted herself to raising their two children—Marcia and Thomas—and to volunteer social work with at-risk youth.

During family vacations in California's coastal mountains, on its wild seashores, and in the Sierra Nevada, Nat developed a deep love for nature and a special fascination for plant life. Her thirst for knowledge about the natural world led her beyond numerous college extension courses to a bachelor's degree in botany and a master's in biology at San José State University. *The Canadian Journal of Botany* published her master's thesis, a pioneering study of mycorrihizae in a plantain native to central California's Santa Cruz Mountains.

Nat volunteered at the university's Sharsmith Herbarium, where she led efforts to digitally catalog its 15,000 plant-specimen sheets for Internet public access. She helped start the Santa Clara Valley chapter of the California Native Plant Society, became its second president, and served as a director of the state organization for three years. She also served as curator of the herbarium until her retirement in 2000.

Upon her husband's death, Nat moved to Pacific Grove, Calif., where she hiked, birded, and traveled with friends—including a 2006 return trip, with family in tow, to the Galapagos Islands. As a docent at Point Lobos State Reserve, she helped re-establish its herbarium and native plants collection.

Nat's estate includes a generous donation to the Center's Native Plant Conservation Campaign, to be used for the continuation of its strong advocacy for native plant species. Her love and concern for native plants, so much a part of her life, continues because of her thoughtful planning.

If you would like to leave a legacy for conservation by making a gift to the Center for Biological Diversity, please call Kevin Dahl on our membership staff at 520.396.1126.


Endangered earth

*Endangered Earth* is the quarterly newsletter of the Center for Biological Diversity, a 501(c)3 nonprofit organization dedicated to protecting endangered species and wild places through science, advocacy, education and environmental law.
Contributions are tax-deductible.




To become a member or give a gift membership, contact Keri Dixon at kdixon@biologicaldiversity.org or 520.623.5252 ext. 312, or send a check or credit card number and expiration date to CBD, Membership, P.O. Box 710, Tucson, AZ, 85702-0710.

Or visit the "join us" page on our secure server: www.biologicaldiversity.org

On occasion, we trade our mailing list with organizations that share our mission. If you would prefer that your name not be exchanged, please contact us.

CENTER FOR BIOLOGICAL DIVERSITY

*Because life is good.*

## Matching Challenge Grant Deadline Dec. 31—Help Us Take Back the Act!

The lame ducks in the Bush administration are doing all they can to butcher the Endangered Species Act before they leave power. A weaker Act will open the door for increased oil and gas drilling, mining, and more development in sensitive habitat. We can't let that happen. **Please help the Center for Biological Diversity Take Back the Act.** It's so important, you'll be hearing from us by mail, e-mail or phone with an invitation to lend your support. But you don't need to wait for the letter or call. To make a gift by phone, call our membership team in Tucson toll-free at 1.866.357.3349. **Make your gift by December 31, and it will be matched dollar-for-dollar!**

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## Unsafe Harbor *continued from front page*

groups, who all argued that the plan was approved with inadequate environmental review and that it placed polar bears and bowhead whales at unnecessary risk.

Fortunately, the Ninth Circuit agreed, and in response to a court challenge filed by Earthjustice on behalf of the Center and its allies, issued an injunction stopping Shell until the court can carry out a more thorough review. Further arguments are scheduled for December, with resolution of the case expected in early 2008.

While the victory over Shell provides important short-term protections for the polar bear, the species and its habitat are far from secure. In June, the Bush administration approved a five-year plan for offshore oil and gas development that would open up almost the entirety of polar bear habitat in the Beaufort and Chukchi seas to oil and gas leasing. Fossil fuels burned from oil and gas development approved under this plan would produce 6 billion tons of carbon dioxide emissions.

The administration could not have come up with a more efficient extinction plan for the species. But the day the five-year offshore oil plan went into effect, the Center filed suit to overturn it. This case, along with the Center's challenge to Shell's exploration plan and a case filed in February against regulations that give the oil industry a blank check to harass polar bears, is one of three cases currently underway in our campaign to directly protect polar bear habitat in Alaska from oil development. Given the Bush administration's never-say-no relationship with the oil industry, it is certain that these cases will not be the last we are forced to bring.

Crucial as they are, lawsuits alone will not save the polar bear. In September 2007, Arctic sea ice reached a new record minimum and government scientists predicted polar bears will be extinct in Alaska by 2050. Yet our government continues to approve new oil leases in Alaska and elsewhere, furthering our national addiction to oil and signing a death warrant for the planet.

If polar bears and other imperiled Arctic species—as well as our own species—are to have a future, we must immediately cease approving new fossil fuel projects and begin the difficult but necessary task of shifting to a carbon-free economy. The polar bear—and the world—cannot wait.

*Cover article by Brendan Cummings, Oceans Program Director*